

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 4TH APRIL 2007 / 14TH CHAITHRA 1929

Crl.Rev.Pet.No. 253 of 1999()

**CRA.230/1996 of ADDL.SESIONS COURT, THODUPUZHA
CC.259/1993 of JUDL. MAGI. OF FIRST CLASS-I, THODUPUZHA
.....**

REVN. PETITIONER:

**PAULOSE S/O.CHULLIKADAN OUSEPH,
PALAVANPADI BHAGAM, VADATTUPARA
P.O. KUTTAMPUZHA.**

BY ADV. SRI.S.K.MURALEEDHARA KAIMAL

RESPONDENTS:

1. THE PUBLIC PROSECUTOR

**2. THE FOREST RANGE OFFICER,
THUNDATHIL RANGE, MALAYATTOOR DIVISION.**

BY PUB LIC PROSECUTOR MR. AMJAD ALI

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 4-4-2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

CRL.M.P.NO. 971 OF 1999 IN CRL.R.P.NO. 253 OF 1999

DISMISSED.

4-4-2007

SD/-K.R.UDAYABHANU, JUDGE

TRUE COPY

P.S.TO JUDGE

K.R. UDAYABHANU, J.

CRL.R.P.NO.253 of 1999

DATED THIS THE 4th day of April 2007

ORDER

The revision petitioner stands convicted for the offence under Sections 27(1)(b)(e)(iii) and (iv) of the Kerala Forest Act and sentenced to undergo simple imprisonment for one year under Section 27(1)(e)(iii) and S.27(1)(iv) and to pay a fine of Rs.1000/- for the offence under Section 27(1)(b) and in default to undergo simple imprisonment for three months. The prosecution case is that the accused on 15-3-1992 trespassed into the reserved forest at Poochettymudi bhagom of Edamalayar forest and set fire to the reserved forest and thereby caused a loss of Rs.450/-. The evidence adduced in the matter consisted of the testimony of PWs.1 to 3 and EXts.P1 to P3 and MO.1 chopper. PW1, the forest guard was not available for cross examination. PW2, another forest guard is an occurrence witness. PW3 the section forester verified the thondi. He has deposed that the skins of Edana trees were recovered from

the jute bag that the accused was carrying. It is the contention of the counsel for the revision petitioner that there is no evidence regarding the arrest of the accused. I find that the same is mentioned in Ext.P1 mahazar. The recovery is also mentioned in Ext.P1 mahazar which is also attested by PW2. There is no suggestion put to PW2 in the cross examination that the accused was not arrested from the spot.

2. In the circumstances and in view of the concurrent findings of the courts below, I find that there is no scope for interference in exercise of the revisional jurisdiction of this Court. So far as the sentence is concerned, I find that the offences for which he has been convicted were subsequently incorporated as per the Amended Act of 1993. The incident has taken place in March 1992 prior to the coming into force of the Amendment Act. In the circumstances and in view of the fact that the incident has taken place about 1 ½ decades back, I find that the sentence is liable to be modified. The conviction is also altered to one under Section 27(1)(b) and 27(1)(e). The sentence is modified to pay a fine of Rs.1000/- each and in default to undergo simple

imprisonment for one month each. The Crl.revision petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.R.P.NO.253 OF 1999

ORDER

04-04-2007